

# Departmental Disclosure Statement

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Infrastructure Funding and Financing Amendment Bill
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The departmental disclosure statement for a government Bill seeks to bring together in one place a range of information to support and enhance the Parliamentary and public scrutiny of that Bill.

It identifies:

- the general policy intent of the Bill and other background policy material;
- some of the key quality assurance products and processes used to develop and test the content of the Bill;
- the presence of certain significant powers or features in the Bill that might be of particular Parliamentary or public interest and warrant an explanation.

This disclosure statement was prepared by Te Tūāpapa Kura Kāinga – The Ministry for Housing and Urban Development.

Te Tūāpapa Kura Kāinga –The Ministry for Housing and Urban Development certifies that, to the best of their knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

28 October 2025

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## Part One: General Policy Statement

This Bill is an omnibus Bill that amends more than 1 Act and is introduced under Standing Order 267(1)(a) because the amendments deal with an interrelated topic that can be regarded as implementing a single broad policy. That single broad policy is to improve infrastructure funding and financing tools to support urban development.

### *Overview*

The Infrastructure Funding and Financing Act 2020 (the IFF Act) provides a mechanism to fund and finance infrastructure that supports urban development. The IFF Act was introduced to help deliver infrastructure projects free from local authority funding and financing constraints.

Through the IFF Act, a special purpose vehicle (an SPV), rather than a council or other infrastructure authority, is used to fund infrastructure. Finance raised using an SPV is excluded from councils' balance sheets, ensuring that it doesn't affect their debt limits. SPVs will repay any finance raised by charging a levy on those who benefit from the infrastructure (for example, landowners in the area serviced by the new infrastructure).

Changes are needed to help improve the usability of the IFF Act as an infrastructure funding and financing tool to support urban development. This Bill removes unnecessary barriers to using the IFF Act, improves the viability of the IFF Act for a range of infrastructure projects, and makes the levy development and approvals process simpler and more streamlined.

### *Streamlining levy approvals process*

The extensive process required for applicants to have a levy approved can be a barrier when trying to use the IFF Act. The Bill aims to streamline this process and improve certainty for developers while still ensuring that the interests of potential levypayers are protected. Key changes include—

- simplifying requirements for levy proposals and recommendation reports:
- simplifying the mandatory considerations the Minister must take into account when assessing a levy, thereby reducing the extent of supporting evidence applicants need to include in their proposals:
- removing the requirement to assess a levy's affordability for proposals supported by developers and all other existing landowners. In greenfield development areas (areas with development on previously undeveloped or rural land), levypayers self-assess affordability and opt into the levy when deciding to purchase a property. Therefore, ministerial consideration of whether a levy is affordable should not be required if existing landowners are supportive. While targeted at greenfield developments, this change would also apply to brownfield developments (developments in existing urban areas) where all landowners are supportive of the levy:
- improving certainty for developer-led proposals by limiting councils' abilities to withhold the necessary endorsements if statutory requirements have been met.

### *Broadening scope of IFF Act*

The Bill also broadens the scope of the IFF Act to improve its flexibility and viability for a range of infrastructure projects. Key changes include—

- broadening the IFF Act's purpose beyond just addressing local authority financing and funding constraints. This better reflects developer-led use of the IFF Act and enables it to also be used for transport projects delivered by the New Zealand Transport Agency or KiwiRail, or for water infrastructure

investments delivered by new water organisations established under the Local Government (Water Services) Act 2025:

- enabling territorial authorities or water organisations to be the responsible levy authority:
- enabling levy deferrals to manage any affordability concerns and better support the use of the IFF Act for value capture.

#### *Other changes to improve IFF Act*

In addition, the Bill makes other changes to improve the functioning of the IFF Act. These include—

- clarifying that an SPV may commence recovery action if levies remain unpaid for more than 4 months:
- establishing an accelerated recovery mechanism to enable an SPV to recover the funding provided for infrastructure if a development fails:
- refining the definition of protected Māori land to enable General land that was formerly Māori freehold land to be more readily identifiable from publicly available information:
- amending consent requirements to include protected Māori land in a proposed levy area to distinguish between greenfield proposals to fund and finance infrastructure to support new housing developments and citywide levy proposals to deliver infrastructure for the wider community.

#### *Amendments to other legislation*

The Bill amends the Local Government (Rating) Act 2002 to ensure that levies will rank alongside rates in the application of proceeds following a rating sale. This ensures that the proceeds of a rating sale will be applied equally towards both unpaid levies and unpaid rates regardless of who commences the recovery action. If the proceeds of the rating sale are insufficient to cover both unpaid rates and levies, the proceeds will be applied in proportion to the outstanding amount.

The Bill amends the High Court Fees Regulations 2013 to prescribe the application fee that applies when a responsible SPV applies to a Registrar of the High Court to have IFF funding recovered through the sale of undeveloped land when a development has failed.

## Part Two: Background Material and Policy Information

### Published reviews or evaluations

<b>2.1. Are there any publicly available inquiry, review or evaluation reports that have informed, or are relevant to, the policy to be given effect by this Bill?</b>	<b>NO</b>

### Relevant international treaties

<b>2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?</b>	<b>NO</b>

### Regulatory impact analysis

<b>2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?</b>	<b>YES</b>
Title: Regulatory Impact Statement: Going for Housing Growth – Improvements to the IFF Act Authoring Agency: Te Tūāpapa Kura Kāinga – Ministry of Housing and Urban Development (HUD) Date: 28 February 2025 This RIS is available at: <a href="https://www.regulation.govt.nz/our-work/regulatory-impact-statements/">Regulatory Impact Statement: Going for Housing Growth – Improvements to the IFF Act - Te Tūāpapa Kura Kāinga – Ministry of Housing and Urban Development</a> and <a href="https://www.regulation.govt.nz/our-work/regulatory-impact-statements/">https://www.regulation.govt.nz/our-work/regulatory-impact-statements/</a> .	

<b>2.3.1. If so, did the Ministry for Regulation provide an independent opinion on the quality of any of these regulatory impact statements?</b>	<b>NO</b>
The RIS identified above did not meet the threshold for receiving an independent opinion on the quality of the RIS from the RIA Team based in the Ministry for Regulation.	

<b>2.3.2. Are there aspects of the policy to be given effect by this Bill that were not addressed by, or that now vary materially from, the policy options analysed in these regulatory impact statements?</b>	<b>NO</b>
However, some policy details had still to be resolved when the RIS was developed, this includes the approach to consent requirements for protected Māori land.	

### Extent of impact analysis available

<b>2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this Bill?</b>	<b>NO</b>

<b>2.5. For the policy to be given effect by this Bill, is there analysis available on:</b>	
<b>(a) the size of the potential costs and benefits?</b>	<b>YES</b>
<b>(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?</b>	<b>NO</b>
<p>2.5(a) - A qualitative assessment of potential costs and benefits of the proposed legislative changes are discussed in the Regulatory Impact Statement.</p> <p>In terms of benefits, the legislative changes proposed in this bill are expected to:</p> <ul style="list-style-type: none"> <li>• Remove unnecessary barriers to using the IFF Act;</li> <li>• Improve the viability of the IFF Act for a range of infrastructure projects, particularly developer-led out-of-sequence projects; and</li> <li>• Make the levy development and approvals process more efficient.</li> </ul> <p>In terms of costs, the legislative changes proposed in this bill could lead to more levies being established, imposing costs on levypayers. However, these costs would only be imposed on those benefiting from an infrastructure project. All costs will be project specific, and affordability for levy payers will be considered when assessing a levy proposal.</p> <p>2.5(b) - This Bill is not expected to result in any group of persons to suffer a substantial unavoidable loss of income or wealth.</p>	

<b>2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be impacted by:</b>	
<b>(a) the level of effective compliance or non-compliance with applicable obligations or standards?</b>	<b>YES</b>
<b>(b) the nature and level of regulator effort put into encouraging or securing compliance?</b>	<b>YES</b>
<p>Landowner compliance with their obligations to pay IFF Act levies on their property will have an impact on policy effectiveness.</p> <p>We expect compliance levels to be high, in line with overall public compliance with paying rates and other property charges.</p> <p>In cases of non-payment the responsible levy authority has the ability to:</p> <ul style="list-style-type: none"> <li>• impose penalties in addition to a levy that is not paid by the due date; and</li> <li>• recover as a debt due a levy that remains unpaid for 4 months after the due date for payment.</li> </ul> <p>The Bill also provides for accelerated recovery of IFF funding when a development has failed e.g. due to developer insolvency or where plans to complete the development have been abandoned. Note, the accelerated recovery mechanism only applies to land other than protected Māori land.</p>	

## Part Three: Testing of Legislative Content

### Consistency with New Zealand's international obligations

<b>3.1. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with New Zealand's international obligations?</b>
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No specific issues were identified in the policy process that may have implications for New Zealand's international obligations.
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### Consistency with the government's Treaty of Waitangi obligations

<b>3.2. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with the principles of the Treaty of Waitangi?</b>
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<p>The Bill includes a change to an existing protective mechanism in the Act for Māori land. While previously consent was required in all cases from owners of protected Māori land for the land to be included in any levy area, the Bill sets a threshold for consent requirements of 5,000 expected leviable properties within a proposed levy area, as a way of demarcating between greenfield and brownfield/citywide levy proposals.</p>
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<p>The Bill also makes a change to information requirements for levy proposals so that where consent is not required, levy proposals only need to include information about protected Māori land that is readily available from the rating information database.</p>
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<p>These changes aim to alleviate concerns with different treatment and application compared to rates where the IFF Act is being used by councils effectively as an off-balance sheet targeted rate. Changes to the threshold for consent and information requirements are also expected to remove the difficulty associated with identification and consent requirements for protected Māori land that NIFF and levy proposers experience with brownfield/citywide levy proposals.</p>
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<p>Treaty analysis was undertaken, as well as engagement with Te Tari Whakataua, and Te Puni Kōkiri on these changes and potential Treaty implications. The Ministry also undertook targeted engagement with the Māori Law Society on this issue in March this year.</p>
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<p>In light of concerns raised, and issues highlighted in Treaty analysis the Bill includes provisions that protect against any risk of potential alienation of protected Māori land. The Bill includes clauses that ensure:</p>
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| <ul style="list-style-type: none"><li>• no person may commence enforcement action entailing the sale or lease of protected Māori land under the Infrastructure Funding and Financing (IFF) Act, and</li><li>• construction SPVs set up under the IFF Act cannot construct infrastructure works on protected Māori land within a levy area under the relevant provisions of the Local Government Act 2002 without consent of the landowners.</li></ul> |
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<p>Consultation has not yet been undertaken more widely with iwi and Māori. However, the Ministry is planning to undertake consultation with iwi and Māori in parallel with the select committee process, to better understand the impact of the proposals and seek their views.</p>
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### Consistency with the New Zealand Bill of Rights Act 1990

<b>3.3. Has advice been provided to the Attorney-General on whether any provisions of this Bill appear to limit any of the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990?</b>	
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	<b>YES</b>
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<p>Advice provided to the Attorney-General by the Ministry of Justice is expected to be available on the Ministry of Justice's website when the Bill is introduced, and can be accessed at: <a href="https://www.justice.govt.nz/justice-sector-policy/constitutional-issues-and-human-rights/the-bill-of-rights-act/advice/">https://www.justice.govt.nz/justice-sector-policy/constitutional-issues-and-human-rights/the-bill-of-rights-act/advice/</a>.</p>
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## Offences, penalties and court jurisdictions

<b>3.4. Does this Bill create, amend, or remove:</b>	
<b>(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?</b>	<b>NO</b>
<b>(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?</b>	<b>NO</b>
<p>While the bill does not amend the jurisdiction of a court or tribunal, the bill does establish an accelerated recovery mechanism to enable an SPV to recover IFF funding if a development fails.</p> <p>This allows the responsible SPV to issue a notice of repayment for unpaid IFF funding that relates to undeveloped land where the development has failed e.g. developer insolvency or abandonment of plans to complete the development.</p> <p>If unpaid IFF funding is not repaid within 20 working days of receipt of the notice, the SPV may apply to the Registrar of the High Court to have the IFF funding recovered through the sale of the undeveloped land.</p>	

<b>3.4.1. Was the Ministry of Justice consulted about these provisions?</b>	<b>YES</b>
The Ministry of Justice was consulted on the draft bill. No concerns or feedback were raised.	

## Privacy issues

<b>3.5. Does this Bill create, amend or remove any provisions relating to the collection, storage, access to, correction of, use or disclosure of personal information?</b>	<b>YES</b>
The bill contains provisions related to information sharing between water organisations, territorial authorities and the responsible SPV where this is necessary to administer an IFF Act levy.	

<b>3.5.1. Was the Privacy Commissioner consulted about these provisions?</b>	<b>YES</b>
The Privacy Commissioner was consulted on the draft bill. The Privacy Commission was comfortable with the approach proposed in the Bill, as standard privacy protections would apply.	

## External consultation

<b>3.6. Has there been any external consultation on the policy to be given effect by this Bill, or on a draft of this Bill?</b>	<b>YES</b>
<p>HUD has worked closely with National Infrastructure Funding and Financing Limited (NIFFCo) on legislative changes to the IFF Act, given their role in the IFF Act system.</p> <p>HUD also carried out targeted consultation on the proposed changes to the IFF Act with some developers, officers in a number of councils, and other relevant stakeholders such as Mafic (who advise NIFFCo on IFF Act transactions). Cameron Partners (investment bankers) and the Māori Law Society (on issues related to protected Māori land).</p> <p>Most stakeholders, but particularly developers, were supportive of changes to improve the efficiency of the levy approvals process. Developers noted that they are best-placed to know if a proposed levy affects the commercial viability of their developments. As such, for developer-led greenfield levies (where risk lies with developers and future property owners effectively opt-in to the levy when purchasing a property), developers considered central government assessment of a levy's affordability unnecessary.</p> <p>Councils, noting the impacts of IFF Act levies on their ratepayers, generally considered that future use of the IFF Act for council-led projects would likely be minimal. Councils considered the cost of IFF Act transactions relative to undertaking projects on-balance sheet (e.g. through Local Government Funding Agency borrowing) made it an unattractive tool for their projects as, despite the benefits of off-balance-sheet financing, the costs of IFF Act transactions are ultimately borne by ratepayers. Councils acknowledged that legislative change to the IFF Act would likely only have a minimal impact on the cost of IFF Act transactions. Noting their role in administering and collecting levies, councils were keen to ensure the costs imposed on them were low.</p> <p>We consulted with Māori Law Society on potential changes relating to levying protected Māori land, and they raised concerns about the potential for further alienation of whenua and the detrimental impact on whenua Māori due to the imposition of the levies. They considered that the requirement for consent is an important and Tiriti consistent approach to levies.</p> <p>Consultation has not yet been undertaken more widely with iwi and Māori. However, the Ministry is planning to undertake consultation with iwi and Māori in parallel with the select committee process, to better understand the impact of the proposals and seek their views.</p>	

## Other testing of proposals

<b>3.7. Have the policy details to be given effect by this Bill been otherwise tested or assessed in any way to ensure the Bill's provisions are workable and complete?</b>	<b>NO</b>
<p>Many of the changes proposed in the Bill aim to address issues experienced by stakeholders involved in developing the first two levy proposals. This helps to ensure that the overall package of changes proposed in this Bill will improve the workability of the IFF Act.</p>	

## Part Four: Significant Legislative Features

### Compulsory acquisition of private property

<b>4.1. Does this Bill contain any provisions that could result in the compulsory acquisition of private property?</b>	<b>NO</b>

### Charges in the nature of a tax

<b>4.2. Does this Bill create or amend a power to impose a fee, levy or charge in the nature of a tax?</b>	<b>YES</b>
<p>Clause 4 of the Bill repeals section 3(1)(b) of the Act, which effectively broadens the Act's purpose beyond just addressing local authority financing and funding constraints. Clause 5(8) of the Bill also extends the definition of responsible infrastructure authority to cover a water organisation, or a state enterprise e.g. KiwiRail.</p> <p>These changes will enable the IFF Act to be used for transport projects delivered by the New Zealand Transport Agency or KiwiRail, or for water infrastructure investments delivered by new water organisations established through the Local Government (Water Services) Act 2025.</p> <p>The objective of these changes is to ensure that essential infrastructure needed to support urban development can be effectively funded, financed and delivered, irrespective of whether the need for an off-balance sheet financing solution relates to local authorities or other infrastructure providers.</p> <p>The IFF Act contains safeguards to ensure that levies are only approved where this is appropriate, affordable and in the long-term interest of levy payers. When we receive a levy proposal, the IFF Act requires HUD to provide as "recommendation report" to the Minister before they are able to make a decision on the proposal. The recommendation report must contain:</p> <ul style="list-style-type: none"><li>• HUD's assessment of the proposal against all the criteria the Minister must consider when assessing the proposal, including consistency with the purpose of the Act, the long-term interest of levypayers over the levy period, and the affordability of the levy.</li><li>• HUD's recommendation about whether the levy should be authorised.</li><li>• Any other information the Minister needs to consider the levy proposal.</li></ul> <p>In recommending a levy proposal to the Governor-General in Council the responsible Minister must only take into account the matters outlined in section 27 of the Act (new clause 17 of the Bill). Levy proposals are also subject to Cabinet consultation and approval processes.</p>	

### Retrospective effect

<b>4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?</b>	<b>NO</b>

### Strict liability or reversal of the usual burden of proof for offences

<b>4.4. Does this Bill:</b>	
<b>(a) create or amend a strict or absolute liability offence?</b>	<b>NO</b>
<b>(b) reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding?</b>	<b>NO</b>

### Civil or criminal immunity

<b>4.5. Does this Bill create or amend a civil or criminal immunity for any person?</b>	<b>NO</b>

### Significant decision-making powers

<b>4.6. Does this Bill create or amend a decision-making power to make a determination about a person's rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests?</b>	<b>NO</b>

### Powers to make delegated legislation

<b>4.7. Does this Bill create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation?</b>	<b>NO</b>

<b>4.8. Does this Bill create or amend any other powers to make delegated legislation?</b>	<b>NO</b>

### Any other unusual provisions or features

<b>4.9. Does this Bill contain any provisions (other than those noted above) that are unusual or call for special comment?</b>	<b>NO</b>
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